IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 5250 of 2006

For Approval and Signature:

HONOURABLE MR.JUSTICE P.B.MAJMUDAR

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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HITESHKUMAR @ HITU RAMESHBHAI PATEL
Versus
STATE OF GUJARAT AND OTHERS

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Appearance :
MR HR PRAJAPATI for the petitioner

MR ND GOHIL, AGP for the respondents

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CORAM : HONOURABLE MR.JUSTICE P.B.MAJMUDAR

Date : 20/07/2006

ORAL JUDGMENT

By filing this petition, the petitioner has challenged his detention order dated 08-2-2006, by which the petitioner is ordered to be detained as a “dangerous person” under Gujarat Prevention of Anti Social

Activities Act [hereinafter referred to as “PASA” for short].

With the order of detention, the petitioner is also served with the grounds of detention. In the grounds of detention, there is a reference to six criminal cases pending against the petitioner. All these cases are in connection with offences under Sections 356, 379, 392, 114 of the Indian Penal Code. It is alleged that the petitioner, along with his associates, has committed theft of golden ornaments.

Mr. H.R.Prajapati, learned advocate for the petitioner submitted that so far as pending criminal cases are concerned, they are in connection with theft of various articles such as golden chain and other ornaments. It is submitted that it cannot be said that the petitioner has violated public order as these are individual cases of theft.

Mr. Prajapati, learned advocate for the petitioner further submitted that some of the documents supplied to the petitioner along with the order of detention are not legible and, therefore, the petitioner could not make effective representation against his detention order. He submitted that such document is page No.72 which is an order granting bail to the detenu. Per se the aforesaid document is not legible at all and learned AGP, Mr.Gohil also submitted that it is difficult to read aforesaid document. He further submitted that since legible copy of some of the documents was not supplied to the petitioner, order of detention passed against the petitioner is required to be quashed and set aside. In this connection, learned advocate for the petitioner has relied upon the decision of this Court in **Asif Abdul Karim Bidiwala Vs. Union of India**, reported in **2005 (2) GLH 105**. In the aforesaid case, learned Single Judge of this Court has held that if documents are partly illegible then it cannot be said that they are legible documents and if legible

documents are not supplied, order of detention is required to be quashed and set aside, as safeguard provided under Articles 21 and 22 (5) of the Constitution of India is breached.

In the instant case, it is not in dispute that aforesaid documents are not legible. Therefore, on this ground order of detention of the present petitioner is required to be quashed and set aside, as the petitioner is denied his right to make effective representation against his detention order for the want of legible documents.

Mr Prajapati, learned advocate for the petitioner submitted that even if the petitioner is ultimately released from judicial custody, he will not enter Dahod Taluka till 30.11.2006 except for attending the criminal cases. This voluntary statement of the detenu is recorded. It is for the authority to montior the same.

For the foregoing reasons, this petition is allowed. The impugned order of detention dated 08.02.2006 passed by the Commissioner of Police, Vadodara City is set aside. The detenu – Hiteshkumar @ Hitu Rameshbhai Patel is ordered to be set at liberty forthwith if he is not required in any other case. Rule is made absolute accordingly. Direct Service is permitted.

(P.B.Majmudar, J.)

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